



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2010

Ms. Amy Currier
Public Information Officer
Texas Funeral Service Commission
P.O. Box 12217 Capitol Station
Austin, Texas 78711

OR2010-07197

Dear Ms. Currier:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 379935.

The Texas Funeral Service Commission (the "commission") received a request for information relating to open complaints involving a named funeral home. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.¹

We first note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information.² You inform us that the commission obtained some of the submitted information after the date of its receipt of this request for information. The information that was not in the commission's possession when it received this request is not responsive to the request, and this decision does not address the public availability of that information.

¹This letter ruling assumes that the submitted "representative copies" of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the commission to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

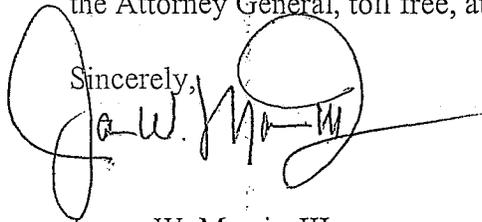
²See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 651.203 of the Occupations Code. Section 651.203(b) provides that "[i]nformation in a [complaint file], other than information relating to a complaint that has not reached a final disposition, is public information." Occ. Code § 651.203(b). We conclude that this language makes information relating to a complaint that has not reached a final disposition confidential. You indicate that the submitted responsive information relates to open complaints that remain under investigation. Based on your representations and our review of the information at issue, we conclude that the commission must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 651.203(b) of the Occupations Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/rl

Ref: ID# 379935

Enc: Submitted documents

c: Requestor
(w/o enclosures)